

IN RE: PETITION FOR ZONING VARIANCE
S/S Turkey Point Road, 15' E
of the c/l of Frederick Avenue
(2115 Turkey Point Road)
15th Election District
5th Councilmanic District
Melvin Leroy Carter, et ux
Petitioners

* BEFORE THE
* DEPUTY ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 89-143-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a side street setback of 2 feet in lieu of the required 25 feet for a proposed addition as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Mr. Carter, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 2115 Turkey Point Road, zoned D.R. 5.5, has been the residence of Petitioners for the past 15 years. Petitioners propose expanding the existing kitchen and dining rooms, which are too small. Due to the location of the basement stair well, and septic system, the proposed addition must be placed in the proposed location necessitating the requested variance. Testimony indicated the side for which the variance is being requested abuts a paper road and will be no closer to the property line than the existing house.

The subject property is located within the Chesapeake Bay Critical Areas and is classified as a limited development area. Petitioner has reviewed the requirements set forth in the comments submitted by the Department of Environmental Protection and Resource Management (DEPRM) dated September 1, 1988 and indicated they will comply if the requested variance is granted.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficient-ly complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or non-conforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation. For Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 31st day of October, 1988 that the Petition for Zoning Variance to permit a side street setback of 2 feet in lieu of the required 25 feet for a proposed addition, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1) The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and,

IT IS FURTHER ORDERED that the Petitioner shall comply fully and completely with all requirements and recommendations of the Department of Environmental Protection and Resource Management, as set forth in their comments dated September 1, 1988, attached hereto and made a part hereof.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802-3 C-1 to permit a side street setback of 2 feet in lieu of the required 25 feet

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

House was constructed over 30 years ago in this location. Owner wishes to construct an addition now to extend the existing deficient setback. Frederick Avenue is a paper street and adjacent land is wooded. Location of septic area and basement stairs limit placement of the addition. Also, location of existing kitchen and dining area limit placement of the addition. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: _____
(Type or Print Name)
Signature: _____
Address: _____
City and State: _____
Attorney for Petitioner: _____
(Type or Print Name)
Signature: _____
Address: _____
City and State: _____
Attorney's Telephone No.: _____
Address: _____
Phone No.: _____

ORDERED By The Zoning Commissioner of Baltimore County, this 21st day of August, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 21st day of October, 1988, at 2:00 o'clock P.M.

(over)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: September 1, 1988

FROM: Mr. Robert W. Sheesley

SUBJECT: Edgar Grove - Carter Property
Petition for Zoning Variance Item #43

SEP 7 1988
ZONING OFFICE

Subject property is located at 2115 Turkey Point Road and Frederick Avenue. The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

The applicant is proposing a single family addition of approximately 480 square feet to permit a side street setback of two feet in lieu of the required 25 feet. With the addition, the total amount of impervious surface will equal 12%.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding that projects are consistent with the following goals of the Critical Area Law:

1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts. <COMAR 16.15.10(1)(2)(3)>

The proposed development will comply with the law provided that the zoning petition is conditioned on compliance with the following requirements:

1. One major deciduous tree or two conifers planted and maintained on the lot. A combination of these two tree types is acceptable provided that 1,000 square feet of tree cover is provided. A major deciduous tree is estimated to cover 1,000 square feet and a conifer, 500 square feet at maturity.
2. Storm water runoff from impervious surfaces associated with this petition should be directed over pervious areas such as lawn to encourage maximum infiltration.

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September 1, 1988
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3. Rooftop runoff should be directed through down-spouts and into a dry well of approved design to encourage maximum infiltration (see attached dry well design).

Upon compliance with the above recommendations, this project will be approved. Please contact Mr. David C. Flowers at 494-3980 if you have any questions.

Robert W. Sheesley
Robert W. Sheesley, Director
Department of Environmental Protection
and Resource Management

RWS:DCF:tjg

Attachment

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3333

J. Robert Haines
Zoning Commissioner

October 31, 1988

Mr. & Mrs. Melvin Leroy Carter
2115 Turkey Point Road
Baltimore, Maryland 21221

RE: PETITION FOR ZONING VARIANCE
S/S Turkey Point Road, 15' E of the c/l of Frederick Avenue
(2115 Turkey Point Road)
15th Election District - 5th Councilmanic District
Melvin Leroy Carter, et ux - Petitioners
Case No. 89-143-A

Dear Mr. & Mrs. Carter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs

cc: People's Counsel
Dave Flowers
File

Chesapeake Bay Critical Areas Commission
Tawes State Office Building, D-6, Annapolis, Md. 21404

